

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
2000 Biennial Regulatory Review --)
Comprehensive Review of the)
Accounting Requirements and)
ARMIS Reporting Requirements for)
Incumbent Local Exchange Carriers:)
Phase 2)
)
Local Competition and Broadband Reporting)

CC Docket No. 00-199

CC Docket No. 99-301 /

COMMENTS
of the
GENERAL SERVICES ADMINISTRATION

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SUMMARY

In these Comments, GSA urges the Commission to retain its uniform accounting and reporting requirements for ILECs as long as they remain dominant in the provision of any essential service. These requirements are necessary to help ensure that both interstate and intrastate rates remain just and reasonable. These requirements prevent regulated services from bearing the costs and risks of nonregulated activities.

GSA also recommends that the Commission not eliminate any accounts from the USOA that remain useful to state regulators, even if they no longer serve Federal purposes. Similarly, GSA urges the Commission not to eliminate its CPR rules, although these rules can be streamlined.

GSA further recommends that the Commission eliminate neither its ARMIS 43-07 Report nor its affiliate transaction rules. The minor reforms it proposes to these rules should be adopted, however.

Finally, since CLECs, IXC's, cable companies and wireless carriers do not possess telephony market power, GSA believes that accounting and detailed reporting requirements are not necessary for their regulation. GSA recognizes, moreover, that there may be situations in the future when reporting requirements can be eliminated for an ILEC before accounting requirements are eliminated. In these cases, the maintenance of uniform accounting requirements will serve to prevent cross-subsidization.

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**COMMENTS
of the
GENERAL SERVICES ADMINISTRATION**

The General Services Administration ("GSA") submits these Comments on behalf of the customer interests of all Federal Executive Agencies ("FEAs") in response to the Commission's Further Notice of Proposed Rulemaking ("Further Notice") released on November 5, 2001. In the Further Notice, the Commission seeks comments and replies on whether there are triggers that will allow the Commission to significantly modify or relieve certain accounting and reporting requirements that currently apply to incumbent local exchange carriers ("ILECs").

I. Introduction

Pursuant to Section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 481(a)(4), GSA is vested with the responsibility to represent the customer interests of the FEAs before Federal and state

regulatory agencies. The FEAs require a wide array of interexchange and local telecommunications services throughout the nation. From their perspective as end users, the FEAs have consistently supported the Commission's efforts to bring the benefits of competitive markets to consumers of all telecommunications services. Until such time as competition provides an effective control over ILEC prices, however, GSA believes that the Commission must continue to maintain rules which assure just and reasonable rates.

In 1999, the Commission initiated a comprehensive review of its accounting rules and related reporting requirements for ILECs.¹ GSA filed comments in Phase 1 of that review to help the Commission balance the requirements for effective regulatory controls with the need for less burdensome regulatory surveillance.² Phase 1 concluded with an order which adopted measures designed to significantly streamline the Commission's accounting and reporting systems.³

¹ Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 1, CC Docket No. 99-253, Notice of Proposed Rulemaking, FCC 99-174, released July 14, 1999 ("Phase 1 Proceeding").

² Phase 1 Proceeding, Comments of GSA, August 23, 1999; Reply Comments of GSA, September 9, 1999.

³ Phase 1 Proceeding, Report and Order, FCC 00-78, released March 8, 2000 ("Phase 1 Order").

GSA also filed Comments in Phases 2 and 3 of the Commission's review.⁴ In Phase 2, GSA generally supported the Commission's proposals to further streamline its accounting and reporting requirements. Phase 2 concluded with an order adopting most of GSA's recommendations.⁵

In its Phase 3 Comments, GSA urged the Commission to maintain uniform accounting and reporting requirements for the ILECs as long as they remain dominant in the provision of any essential service. The Further Notice seeks to refresh the Phase 3 record, and raises additional issues for comment.

II. ILECs Must Remain Subject To Uniform Accounting And Reporting Requirements As Long As They Remain Dominant In The Provision Of Any Essential Service

The Further Notice seeks comment on whether the Commission should establish arbitrary "sunset dates" for its various accounting and reporting requirements.⁶ GSA strongly urges the Commission not to take such a step with respect to one of its principal statutory responsibilities.

⁴ 2000 Biennial Regulatory Review-Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3, CC Docket No. 00-199, Notice of Proposed Rulemaking, FCC 00-364, released October 18, 2000 ("Phase 2 Proceeding"), Comments of GSA, December 21, 2000; Reply Comments of GSA, January 30, 2001; ("Phase 3 Proceeding"), Comments of GSA, February 13, 2001; Reply Comments of GSA, March 14, 2001.

⁵ Phase 2 Proceeding, Report and Order, FCC 01-305, released November 5, 2001 ("Phase 2 Order").

⁶ Further Notice, para. 209. "Sunset dates" are preset termination dates.

The Commission's statutory responsibility with respect to accounting matters is clear under the Act.⁷

The Commission shall, by rule, prescribe a uniform system of accounts for use by telephone companies. Such uniform system shall require that each common carrier shall maintain a system of accounting methods, procedures, and techniques (including accounts and supporting records and memoranda) which shall ensure a proper allocation of all costs to and among telecommunications services, facilities, and products (and to and among classes of such services, facilities, and products) which are developed, manufactured, or offered by such common carrier.⁸

Uniform accounting and reporting by ILECs has been the bedrock upon which both Federal and state regulation has been based for many decades. Since only the Commission is in a position to require uniformity of accounting and reporting throughout the nation, the Commission must consider both Federal and state regulatory needs in assessing changes to its rules. The National Association of Regulatory Utility Commissioners ("NARUC") recognizes the importance of the Commission's willingness and historical efforts to synchronize accounting and reporting requirements. NARUC stated in the Phase 2 proceeding:

Such cooperation is in the public interest as it enables federal and State regulators to effectively work on issues of joint interest, such

⁷ Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("Act").

⁸ 47 U.S.C. 220 (a) (2). The Commission's authority to require annual reports can be found in 47 U.S.C. 219 (a).

as universal service, and avoids the establishment of unnecessary and redundant accounting and reporting requirements.⁹

NARUC went on to note:

Until such time as there is truly a competitive market, the NARUC proffers that current standards in accounting and reporting data are essential in the monitoring of the network at the federal level.¹⁰

GSA agrees with NARUC. As long as an ILEC remains dominant in the provision of any essential interstate or intrastate service, uniform and accurate accounting and reporting requirements will remain necessary. These requirements are necessary to ensure that regulated rates remain just and reasonable. Specifically, these requirements ensure that ratepayers of regulated services do not bear the costs and risks of nonregulated activities. These requirements are also essential to the maintenance of fair and equitable universal service programs.

Once effective facilities-based competition can be seen to have eliminated a given ILEC's market power with respect to a service, the Commission will deregulate that service. The Commission's accounting and reporting system should remain in place, however, to ensure that such deregulated services are not subsidized by the services which remain regulated.

A day may arrive when all of an ILEC's services become deregulated, and then the need for uniform accounting and detailed reporting will be ended for that ILEC. As

⁹ Phase 2 Proceeding, Reply Comments of NARUC, p. 2.

¹⁰ Id., p. 3.

the Commission notes, that day came for AT&T in 1995 when the Commission declared it non-dominant.¹¹

It is not likely, however, that any ILEC will be declared non-dominant for many years. AT&T was not declared non-dominant by the Commission until its share of interstate toll service revenues had fallen to less than 50 percent.¹² According to the Commission's latest local competition report, 97 percent of the nation's end user lines are still provided over ILEC facilities.¹³ While GSA hopes that facilities-based local service competition will grow in the coming years, it would be premature to speculate as to when any ILEC will be declared non-dominant. Under these circumstances, it would be totally inappropriate to establish sunset dates for any accounting or reporting requirements.

III. Accounts Needed For State Purposes Only Should Remain Part of The USOA

The Further Notice notes that the Commission's Phase 2 Order identified a number of accounts that appear no longer necessary for federal purposes.¹⁴ The

¹¹ Phase 3 Proceeding, footnote 139.

¹² Statistics of the Long Distance Telecommunications Industry, FCC, January 2001, Table 9.

¹³ Local Telephone Competition: Status as of December 31, 2000, released May 21, 2001. Tables 3 and 4 show that ILEC facilities serve 189,512,000 of 195,260,000 end user lines.

¹⁴ Further Notice, para. 207.

Commission proposes to “arrange an orderly transition to a mechanism in which states undertake responsibility for collecting this information.”¹⁵

GSA disagrees with the Commission’s proposal. As discussed at length above, it is the Commission’s statutory responsibility to prescribe a uniform system of accounts (“USOA”). The USOA is essential to economic regulation by both the Commission and state commissions. Although the Commission sees no federal purpose for some accounts, it concedes that state regulators have articulated their need “for various purposes, including assisting their work in promoting local competition, developing appropriate prices for unbundled network elements, and conducting local ratemaking proceedings.”¹⁶

GSA can see no benefit that would result from the elimination of USOA accounts that remain useful to state commissions. It would be highly inefficient for the states to individually or collectively develop procedures to capture this data outside of the USOA framework. The Balkanization of data collection in this manner would be costly, disruptive and directly contrary to the plain intent of the Communications Act of 1934, as described above.

¹⁵ Id.

¹⁶ Id.

III. The Commission Should Streamline Its CPR Rules

The Further Notice seeks comments on whether the Commission should eliminate or streamline its rules for continuing property records ("CPR").¹⁷ The Commission tentatively concludes that it should phase out its CPR rules because these rules largely serve the interests of state regulators.¹⁸

Once again, the tentative conclusion is based on too narrow a view of the Commission's statutory responsibility. The state regulators assert they have an ongoing need for CPR information to support state ratemaking proceedings.¹⁹ Because the Commission is responsible for the USOA, it has an obligation to ensure that the account balances shown in these accounts meet a standard of accuracy commensurate with their use in state ratemaking proceedings. For this reason, the Commission must not eliminate its CPR rules.

On the other hand, the Commission's CPR rules may indeed be overly rigid and burdensome relative to current state regulatory requirements. GSA encourages the Commission, therefore, to streamline its CPR rules as much as possible consistent with the legitimate needs of state regulators.

¹⁷ Id., para. 212.

¹⁸ Id.

¹⁹ Id.

V. The ARMIS 43-07 Report Should Not Be Eliminated

The Further Notice seeks comment on whether infrastructure information currently collected in ARMIS Report 43-07 should instead be captured through the "Local Competition and Broadband Data Gathering Program" ("Competition Report").²⁰

GSA has been an active participant in the Commission's Competition Report Proceeding, and fully supports the Commission's Competition Report.²¹ However, GSA sees no reason for transferring infrastructure information from the ARMIS 43-07 Report to the Competition Report. Such an action would needlessly complicate the Competition Report, and require many carriers to report data that they do not now have to report.

As the Commission has noted, the ARMIS 43-07 already provides infrastructure information on carriers that provide service to 93 percent of the Nation's customers.²² This is fully adequate to evaluate the effects of public policy choices on those carriers that play a critical role in our national economy and to calibrate the Commission's actions.²³

²⁰ Further Notice, para. 211, citing Local Competition and Broadband Reporting, CC Docket No. 99-301, ("Competition Report Proceeding"), Report and Order, FCC 00-114, released March 30, 2000.

²¹ See Competition Report Proceeding, Comments of GSA, December 3, 1999; Reply Comments of GSA, December 20, 1999; Comments of GSA, March 19, 2001, Reply Comments of GSA, April 2, 2001.

²² Phase 2 Order, para. 160.

²³ Id.

VI. The Commission Should Modify Its Affiliate Transaction Rules

The Further Notice also seeks comment on whether the Commission should eliminate or modify its affiliate transaction rules.²⁴ The Further Notice notes that Section 272 of the Communications Act specifically requires the Commission to establish affiliate transaction rules in connection with the interLATA services of Bell Operating Companies ("BOCs").²⁵

The Commission's affiliate transaction rules are designed to ensure that improper cost allocation does not result in the cross-subsidization of unregulated services by regulated services. While it is true that regulatory mechanisms such as price caps reduce the likelihood of such cross-subsidizations at the Federal level and in many states, the danger is not completely eliminated in all states, and not necessarily eliminated for all time.

Indeed, if the Commission's efforts to promote competition in local telecommunications bear fruit, it is likely that many services will be deregulated in the coming years. The Commission's affiliate transaction rules will become all the more important as the number of unregulated services increases.

While now is clearly not the time to consider eliminating the Commission's affiliate transaction rules, the minor reforms noted by the Further Notice have merit and, therefore, should be adopted.²⁶

²⁴ Further Notice, para. 214-217.

²⁵ Id., para 215.

²⁶ Id., para. 216-217.

VII. Non-ILECs Should Not Be Made Subject To Uniform Accounting And Reporting Requirements Unless They Become Dominant In the Provision Of An Essential Service

The Commission notes that other carriers, such as competitive local exchange carriers ("CLECs"), interexchange carriers ("IXCs"), cable companies providing telephony and wireless carriers, are not subject to its accounting and reporting requirements.²⁷ The Commission seeks comments on whether this "asymmetric" regulation makes sense as we move to a more competitive environment.²⁸

GSA strongly disagrees with the Commission's suggestion that its regulation is "asymmetric". The Commission's accounting and reporting rules apply to all dominant carriers having market power over one or more essential services. Since 1995, of course, all such carriers have been ILECs.

The Commission's accounting and reporting requirements are necessary to prevent dominant carriers from exercising their market power to the detriment of ratepayers and the competitive process. Since no CLEC, IXC, cable company or wireless carrier possesses telephony market power, accounting and detailed reporting requirements are not necessary for their regulation.²⁹

As the Commission notes, some ILECs have begun to compete as CLECs

²⁷ Phase 3 Proceeding, para. 92.

²⁸ Id.

²⁹ As the Commission has found, certain information must be reported by all carriers for universal service and monitoring purposes.

outside of their traditional service areas.³⁰ In such circumstances, the ILEC-owned CLECs will have no more market power than any other CLECs, and need not be made subject to the accounting and reporting requirements applicable to an ILEC operating in its traditional service area.

VIII. ILEC Accounting and Reporting Requirements May Be Different

The Commission also requests comment on whether it makes sense to relieve ILECs from annual reporting requirements, while maintaining existing accounting requirements.³¹ Although it notes that compliance with certain requirements may be critical to protecting ratepayers from subsidizing nonregulated services, the Commission asks how its mission would be affected if it were to gather information on a less frequent, or more ad hoc, basis.

The Commission must ensure that the needs of the state commissions and the public are considered with respect to reporting. As discussed above, only the Commission is in a position to require uniform reporting throughout the nation. As GSA noted in its Phase 2 Reply Comments, 41 state commissions reported in response to a General Accounting Office ("GAO") survey that they found the Commission's annual Automated Reporting Management Information System ("ARMIS") reports helpful.³² The

³⁰ Phase 3 Proceeding, para. 93.

³¹ *Id.*, para. 95.

³² Phase 2 Proceeding, Reply Comments of GSA, p. 16, citing Development of Competition in Local Telephone Markets, GAO, January 2000, p. 52.

regulatory missions of both the Commission and state commissions continue to be dependent upon accurate and uniform accounting and reporting standards.

While ad hoc information requests might serve the Commission's needs in certain limited circumstances, only the annual reporting of basic data will provide the Commission, the state commissions and the public with the information necessary to fully monitor ILEC operations. A reporting schedule less frequent than annually would not provide data on a timely enough basis to ensure informed decision making.

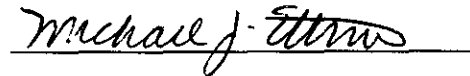
There may be situations in the future, however, when ILEC reporting requirements can be eliminated before accounting requirements. For example, if an ILEC is found to be non-dominant in a particular state by both the Commission and the state commission, it would be reasonable to eliminate separate reporting requirements for that ILEC for that state. In such a situation, however, accounting requirements would remain necessary to allow total ILEC reports to be prepared for interstate and universal service purposes. The ILEC accounting requirements would also help ensure that the ILEC does not subsidize its operations in the state in which it has been declared non-dominant with revenues generated in states in which it retains market power.

IX. Conclusion

As a major user of telecommunications services, GSA urges the Commission to implement the recommendations set forth in these Comments.

Respectfully submitted,

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A handwritten signature in cursive script, reading "Michael J. Ettner", is written over a horizontal line.

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April 8, 2002

CERTIFICATE OF SERVICE

I, MICHAEL J. ETTNER, do hereby certify that copies of the foregoing "Comments of the General Services Administration" were served this 8th day of April, 2002, by hand delivery or postage paid to the following parties.

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